



California Fair Political Practices Commission

October 28, 1985

Peter D. Langley, Councilmember
c/o Gordon, DeFraga, Watrous & Pezzaglia
P.O. Box 630
Martinez, CA 94553

RE: Your Request for Advice
Our File No. A-85-216

Dear Mr. Langley:

You have written requesting Formal Written Advice to confirm informal assistance rendered to you over the telephone. The facts are as follows.

FACTS

You are a city councilmember in the City of Martinez. As such, you file an annual Statement of Economic Interests, Form 721, which requires that you disclose sources of income to you which are located in or do business in the City of Martinez or which have done so in the preceding two year period or plan to do business in the future in the City of Martinez. You are an employee of the law firm of Gordon, De Fraga, Watrous & Pezzaglia and are about to become a partner in the firm.

QUESTION

You wish to know what reporting obligations will be created by such an arrangement, specifically with regard to reporting the names of clients of the firm and fees paid by them.

ANALYSIS

The conflict of interest disclosure provisions of the Political Reform Act (the "Act")^{1/} require that officials

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

disclose various economic interests which may be affected by their decisions. Sections 87200, 87206, and 87207. At present, as an employee of the firm, you are required to disclose the firm as a source of income on Schedule D (copy enclosed) and disclose the level of income received from the firm by checking the appropriate box on the form.

When you become a partner in the firm you will continue to make the same disclosure; however, you will also be required to disclose your investment in the firm on Schedule A (copy enclosed). You will need to indicate whether you own less than 10 percent of the firm, or more than 10 percent, by checking the appropriate box, and also indicate the value of your investment by checking the appropriate box. If you own 10 percent or more of the firm, your reportable income from the firm will consist of your pro rata share of the firm's gross receipts. See Carey Opinion, 3 FPFC Opinions 99 (No. 76-087, Nov. 3, 1977).

If you own 10 percent or more of the firm, other disclosures may be required of you. If the firm has an interest in real property (owns its office building), that interest must be disclosed on Schedule C-1 (copy enclosed). In addition, if you own 10 percent or more of the firm, you are required to disclose any reportable source of income which pays the firm sufficient income so that your pro rata share during the reporting period is \$10,000 or more. Section 82039(a); Section 87207(b). Only the name of the client need be reported by you on Schedule H (copy enclosed); you need not disclose the actual amount of the fees. The income to be measured here consists of the firm's gross receipts during the reporting period, which is the calendar year for your annual statement.

By way of example, if you were to acquire a 10 percent interest in the firm as of January 1, 1986, you would be required to disclose only those clients which paid your firm \$100,000 or more during 1986. The name of those clients would be disclosed on your 1986 Annual Statement, filed in the Spring of 1987. If, instead, you own 20 percent of the firm, clients paying the firm \$50,000 or more would result in your pro rata share equalling \$10,000 or more and would trigger disclosure of their identities on Schedule H. Section 87207(b)(2).

CONCLUSION

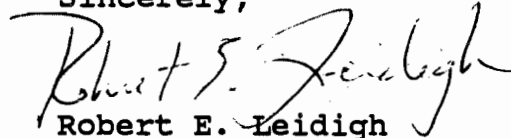
Unless you become an owner of 10 percent or more of the firm, you will not need to disclose the names of the firm's

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clients. The actual amount of fees need never be disclosed. If you become a 10 percent or greater owner of the firm, clients of the firm become sources of income to you when your pro rata share of the firm's gross receipts reaches \$250 or more. This may require disqualification in certain instances. Section 87103(c). However, disclosure of the identity of the firm's clients is not required until your pro rata share of the firm's receipts from the client reaches the \$10,000 level. It is important to remember that there is a difference between the disqualification threshold of \$250 pro rata and the disclosure threshold of \$10,000 pro rata. You may be required to disqualify yourself as to one of the firm's clients even though disclosure on your annual statement is not required.

I trust that this letter adequately responds to your inquiry. Should you have any questions regarding it, I may be reached at (916) 322-5901.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Leidigh", written in a cursive style.

Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosures

GORDON, DeFRAGA, WATROUS & PEZZAGLIA

A Law Corporation

Allan DeFraga
Thomas A. Watrous
James A. Pezzaglia
Timothy J. Ryan

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Peter I
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George
of

October 15, 1985

Mr. Robert Leidigh
Staff Attorney
California Fair Political Practices
Commission
P.O. Box 807
Sacramento, CA 95804

Dear Mr. Leidigh:

This is to follow up our telephone conversation of October 15, 1985.

As I stated, I am a member of the Martinez City Council and an employee of the above law firm which is a legal corporation.

Prior to consideration of issuing shares of stock to me, two questions have arisen as I am subject to the disclosure requirements of the Fair Political Practices Act:

1. If shares are issued to me, under what circumstances would the names of firm clients have to be disclosed in my annual disclosure statement?

2. If shares were issued to me, under any circumstances would the revenue received from individual clients have to be disclosed?

I would appreciate your answer to these questions at your earliest convenience. I trust that the opinion rendered is confidential. If this is not the case, please advise me.

10/16/85 - Telephoned Langley - explained advice letter is probably
may be summarized in the Bulletin and others may require
it to receive it.

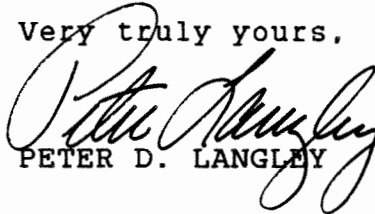
611 Las Juntas Street, P.O. Box 630, Martinez, California 94553 • (415) 228-1400

He said O.K. - go ahead. of do letter.

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Thank you very much for your courtesy and cooperation.

Very truly yours,



PETER D. LANGLEY

PDL:mdm